

be paid for the actual expenses of transportation at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished.

(2) A witness who travels by privately owned vehicle shall be paid a transportation allowance equal to the mileage allowance paid for official travel of employees of the Federal Government under the provisions of 5 U.S.C. 5704. However, when two or more witnesses travel in the same privately owned vehicle, only the witness incurring the expense shall receive the mileage allowance.

(3) A witness incurring incidental transportation expenses, such as taxi fares between the place of attendance, residence or lodging and the carrier terminals; bridge, road and tunnel tolls; ferry fares; and parking fees shall be paid in full for such expenses. Receipts or other evidence of actual payment are required for *all parking fees* (if available) and all other single items costing more than \$25.

(4) First-class travel by witnesses requires the same justification and approval required for first-class travel by employees of the Federal Government.

(c) *Subsistence allowance.* A witness (other than a witness detained *in custody*) who is required to be away from his or her residence *overnight* is entitled to a subsistence allowance. A witness who *is not* required to be away from his or her residence *overnight* *is not* entitled to a subsistence allowance. The witness' subsistence allowance shall not exceed either the per diem rate or the actual subsistence allowance rate prescribed for Government employees for the place of attendance. These rates are established by the Administrator, General Services, for areas within the conterminous United States; the Secretary of Defense for areas of the United States other than conterminous; or the Secretary of State as published in the Standardized Regulations (Government Civilians, Foreign Areas) for foreign areas. The witness' subsistence allowance shall consist of a meal and miscellaneous expense portion and a lodging portion. *When an overnight stay is required*, the witness shall be entitled to:

(1) The meal and miscellaneous expense portion for each day (or partial day) the witness is required to remain away from his or her residence and

(2) The lodging portion for each night the witness is required to incur a lodging expense.

The meal and miscellaneous expense portion shall be 50% of the authorized subsistence allowance rate rounded to the next whole dollar in an actual subsistence rate area, or 45% of the per diem rate rounded to the next whole dollar in a per diem area. The lodging portion shall be the difference between the meal and miscellaneous expense portion and the authorized rate.

(d) *Detained witness fee.* A witness (other than an alien covered by § 21.3) detained *in custody* pursuant to 18 U.S.C. 3149 for want of security for his or her appearance shall receive subsistence *in kind* and shall be paid a single daily attendance fee for each day the witness is detained. A witness in custody for purposes other than 18 U.S.C. 3149 is ineligible to receive the attendance and subsistence fees provided by this section.

§ 21.5 Use of table of distances.

Mileage payable to witnesses under 28 U.S.C. 1821 shall be computed on the basis of odometer readings or the highway distances as stated in the Rand McNally Standard Highway Mileage Guide or in any generally accepted highway mileage guide which contains a shortline nationwide table of distances. However, with respect to travel in areas for which no such highway mileage guide exists, mileage payable under 28 U.S.C. 1821 shall be based on the lesser of either (a) the route of travel actually employed or (b) a usually traveled route.

§ 21.6 Proceedings *in forma pauperis*.

Title 28 U.S.C. 1915 provides for the commencement, prosecution or defense of any suit, action, or proceeding without prepayment of fees and costs. Witnesses shall attend as in other cases.

(a) *Civil cases.* There are currently no provisions for payment of witnesses called by the indigent. If the indigent party prevails, witness fees and expenses may be taxed as costs in accordance with 28 U.S.C. 1920.